

MEMORANDUM

TO: Honorable Suzanne V. DelVecchio, Chief Justice, Superior Court Department
Honorable Sean M. Dunphy, Chief Justice, Probate & Family Court Department
Honorable William J. Tierney, Chief Justice, Boston Municipal Court Department
Honorable Samuel E. Zoll, Chief Justice, District Court Department

FROM: Barbara A. Dortch-Okara
Chief Justice for Administration and Management

DATE: November 10, 2000

RE: **Amendments to the confidentiality provisions of c. 209A**

As you know, the confidentiality provisions of G.L. c.209A were recently amended. These amendments were effective as of November 8, 2000. The purpose of this memorandum is to revise the procedures set forth in my January 4, 2000 memorandum to you regarding the confidentiality of certain information in the records of c.209A proceedings.

Chapter 209A no longer provides for the impoundment of the plaintiff's address upon request. See c.209A, §3(g) and §8. Any information in the court record which the plaintiff wishes to be impounded may now be impounded only in accordance with court rule.

The most significant changes to the public access provisions of c.209A are to §8. The categories of individuals who may have access to confidential information contained in the record of c.209A proceedings have been expanded. In addition to the plaintiff, the plaintiff's attorney and those specifically authorized by the plaintiff to obtain confidential information, the law now provides that prosecutors, victim-witness advocates, domestic violence victims' counselors, sexual assault counselors and law enforcement officers shall have access to the confidential information, if necessary in the performance of their duties. This last clause is important because it qualifies the access that such individuals have to this information.

The procedures set forth below take the place of the procedures set forth in my January 4, 2000 memo to you concerning the confidentiality provisions of c.209A. Please take the necessary steps to ensure that the following procedures, along with any related guidance provided by you for your department, are implemented immediately:

1) Clerk-Magistrates, Registers of Probate and their staffs shall cease using the Request for Address Impoundment form FA 4 (9/95) because c.209A, §3(g) no longer specifically provides for the impoundment of the plaintiff's address. Please discard these forms.

2) Clerk-Magistrates, Registers of Probate and their staffs shall advise persons seeking abuse prevention restraining orders that they must exclude from their application [forms FA 1 (9/95) and FA 1A (9/95)] the following confidential information:

- a) plaintiff's residential address,
- b) plaintiff's residential telephone number,
- c) plaintiff's workplace name,
- d) plaintiff's workplace address, and
- e) plaintiff's workplace telephone number.

3) Clerk-Magistrates, Registers of Probate and their staffs shall advise plaintiffs:

- a) to provide the confidential information on the enclosed "Confidential Information Form" and to provide the names of persons authorized by the plaintiff to obtain access to that information;
- b) that these five pieces of information are "confidential" and shall not be provided to any person other than the plaintiff, the plaintiff's attorney, persons specifically authorized by the plaintiff to obtain such information, and, if necessary in the performance of their duties, to prosecutors, victim-witness advocates, domestic violence victims' counselors, sexual assault counselors, and law enforcement officers; and
- c) that the plaintiff's residential address and workplace address will appear on the court order and be accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order.

4) Clerk-Magistrates, Registers of Probate and their staffs should attempt to segregate confidential information in public case records. They shall remove all confidential information from all cases and case management records before providing access to these case records.

5) Any and all requests to obtain access to the confidential information referred to above, including requests made by persons authorized by the plaintiff and by those individuals authorized by statute for whom access to the information is necessary in the performance of their duties, shall be submitted to the office of the appropriate Clerk-Magistrate or Register on the enclosed Request for Access to Confidential Information Form which shall be signed by the person requesting the confidential information. Persons seeking access to such information shall also present to the office of the Clerk-Magistrate or Register a valid driver's license or other suitable photographic verification of the person's identity and signature and as required by statute, set forth the reason(s) access to the information is necessary in the performance of their duties.

The process of securing confidential information and providing appropriate access thereto is separate and distinct from the impoundment process. Requests for access to impounded information shall be reviewed by the court.

6) The offices of the Clerk-Magistrate and Register of Probate shall take appropriate steps to ensure that unauthorized persons do not obtain the confidential information referred to above through access to the Confidential Information Form or through any other record associated with the abuse prevention proceeding including, but not limited to files, tape recordings and docket books.

Thank you for your continuing cooperation and efforts in implementing these amendments to

the confidentiality provisions of c.209A.

Enclosures

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**COMPLAINT FOR
PROTECTION FROM ABUSE
(G.L. c. 209A)**

Docket No.

**TRIAL COURT OF
MASSACHUSETTS**



**Request for Access to Confidential Information pursuant
to G.L. c.209A, §8**

Name: _____
(Please Print)

The following confidential information is requested: _____

Basis for Access:

- a) _____ Plaintiff or Plaintiff's Attorney
- b) _____ Authorized by Plaintiff (written authorization from plaintiff must accompany request form unless the person requesting the information is named on the Confidential Information Form)
- c) _____ Prosecutor _____
Name, address and telephone number of prosecuting agency
- d) _____ Law enforcement Officer _____
Name, address and telephone number of law enforcement agency
- e) _____ Victim-Witness Advocate _____
Name, address and telephone number of prosecuting
or other criminal justice agency
- f) _____ Domestic Violence Victims' Counselor _____
Name, address and telephone number of
domestic violence victims' program
- g) _____ Rape Crisis Counselor _____
Name, address and telephone number of rape crisis center
- h) _____ Other, authorized by court (A copy of the court's order must accompany request form)

For c) through g) above, pursuant to G.L. c.209A, paragraph 2, access can only be given if the requested confidential information is necessary in the performance of the duties of the person requesting access. Please explain how the information requested is necessary in the performance of your duties:

Signature of the person requesting access

Date